

### **Remarks**

#### **A. Cross-reference to Co-pending application**

The Applicants wish to draw the Examiner's attention to copending U.S. patent application No. 10/562,769, filed on June 27, 2006, containing claims directed to antibody fragments comprising Fab or Fab' that have been modified by the replacement of either the interchain cysteine of C<sub>H</sub>1 or the interchain cysteine of C<sub>L</sub> with another amino acid.

#### **B. Restriction Requirement**

Responsive to the Restriction Requirement mailed November 7, 2007, the Applicants provisionally elect Group I with traverse. The Examiner required an identification of claims encompassed by the elected invention. The claims encompassed by the invention are claims 1-18, and 27-30.

Upon further review of election requirement, however, it is believed to be improper and withdrawal is requested. According to PCT Rule 13, unity of invention exists where there is a technical relationship among the claimed inventions involving at least one special technical feature. PCT Rule 13.2 dictates that a restriction based on lack of unity of invention should not be raised or persisted in on the basis of a narrow, literal or academic approach. Here, the claims all contain a common inventive feature in that they all contain the technical feature of an Fab or Fab' fragment that has been modified by the attachment of at least one effector molecule wherein the heavy chain in the fragment is not covalently bonded to the light chain, and both the interchain cysteine of C<sub>L</sub> and the interchain cysteine of C<sub>H</sub>1 have been replaced with another amino acid. As a common inventive feature is present in all of the claims, unity of invention exists among the claims.

Furthermore, the Examiner has indicated that the claims lack unity of invention because the technical feature of Claim 1 is not special, citing Humphreys (WO 99/15549) in support. The Examiner cited the examples and pages 8-10 of this reference. Upon closer review, the Applicants submit that neither pages 8-10 nor the examples support the Examiner's assertion; the cited reference does not disclose the replacement of the

cysteine of C<sub>H1</sub> with another amino acid. Accordingly, the Examiner's reliance on Humphreys is misplaced; Humphreys is not prior art against the claims.

As such, an examination of all of the claims in a single application would not be unduly burdensome. Withdrawal of the restriction request, therefore, is in order and is earnestly solicited.

The Applicants invite the Examiner to contact the Applicants' undersigned representative at (312) 913-3319 if the Examiner believes that this would expedite prosecution of this application.

Respectfully submitted,

December 6, 2007

By: Marcia Ireland Rosenfeld/

Marcia Ireland Rosenfeld  
Reg. No. 60,679  
McDonnell Bochnen Hulbert & Berghoff LLP  
300 S. Wacker Drive  
Chicago, IL 60606  
Phone: (312) 913-3319  
Fax: (312) 913-0002